INTERNATIONAL EXPERIENCE OVERVIEW ON MECHANISMS FOR ENFORCING FINANCIAL CONSUMER PROTECTION

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Abstract: The protection of financial consumers plays a crucial role in promoting the development of the financial system contributing significantly to economic growth and overall financial objectives in each country. Therefore, many major organizations worldwide have developed principles or provided recommendations as reference frameworks for implementing financial consumer protection practices. Among these, the "39 Good Practices for Financial Consumer Protection" by the World Bank and the "10 Principles for Financial Consumer Protection" by the G20/OECD stand out prominently. While not legally binding, these principles are considered essential foundations for countries to consult in constructing and refining their legal and institutional frameworks. Building on this foundation, the article elaborates on specific international norms, legal frameworks, and enforcement mechanisms for financial consumer protection proposed by the World Bank and G20/OECD. The aim is to assist policymakers in enhancing their legal frameworks for the protection of financial consumers.

Keywords: Financial consumer protection, legal framework, international norms, enforcement mechanisms.

TỔNG QUAN KINH NGHIỆM QUỐC TẾ VỀ CƠ CHẾ THỰC THI BẢO VỆ NGƯỜI TIÊU DÙNG TÀI CHÍNH

Tóm tắt: Bảo vệ người tiêu dùng tài chính có vai trò hết sức quan trọng trong thúc đẩy sự phát triển hệ thống tài chính nói riêng cũng như tăng trưởng kinh tế và mục tiêu tài chính toàn diện nói chung tại mỗi quốc gia. Do đó, nhiều tổ chức lớn trên thế giới đã phát triển các bộ nguyên tắc hoặc đưa ra các khuyến nghị làm cơ sở tham chiếu để thực hành việc bảo vệ người tiêu dùng tài chính, trong đó nổi bật hơn cả là "39 ứng dụng tốt về bảo vệ người tiêu dùng tài chính, trong đó nổi bật hơn cả là "39 ứng dụng tốt về bảo vệ người tiêu dùng tài chính" của World Bank và "10 nguyên tắc bảo vệ người tiêu dùng tắc này được xem là căn cứ quan trọng để các quốc gia tham khảo cho việc xây dựng, hoàn thiện khuôn khổ pháp

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Received 28 February 2024, Received in revised 15 March 2024, Accepted 24 May 2024

lý và thể chế của mình. Dựa trên cơ sở đó, bài viết trình bày cụ thể các thông lệ quốc tế, khuôn khổ pháp lý và cơ chế thực thi bảo vệ người tiêu dùng tài chính được World Bank và G20/ OECD đề xuất với mục tiêu giúp các nhà hoạch định chính sách hoàn thiện khuôn khổ pháp lý bảo vệ người tiêu dùng tài chính.

Từ khoá: Bảo vệ người tiêu dùng tài chính, khuôn khổ pháp lý, thông lệ quốc tế, cơ chế thực thi.

1. Introduction

Until now, there has been no universally accepted formal definition of financial consumer protection. The European Payments Council (2021) defines financial consumer protection as the establishment of a legal framework and governmental organization by the state to safeguard the legitimate rights of financial consumers. Moreover, it emphasizes that financial consumers should possess adequate knowledge, skills, and understanding to autonomously protect themselves when utilizing financial services. The Central Bank of Uganda (2011) characterizes financial consumer protection as the fair treatment by financial service providers towards both current and potential customers. According to the World Bank (2012), financial consumer protection involves the operation of a legal framework and government institutions to ensure the legitimate rights of financial consumer protection as any activity, action, or set of rules aimed at minimizing risks and harm to consumers related to the use of any financial products or services.

In contemporary times, financial consumer protection has garnered increasing attention from both scholars and policymakers. Every year, around 150 million new financial consumers emerge, with most coming from developing countries where the importance of protecting financial consumers is often ignored (Rutledge, 2010). Furthermore, the advent of fintech has provided financial consumers with thousands of new financial products and choices, accompanied by a substantial influx of information (Ryan et al., 2010). However, the increase of various complex financial products with abundant information may expose financial consumers to disadvantages such as information asymmetry and financial fraud. Therefore, the development and refinement of a legal framework for protecting financial consumers not only serves to shield them from risks and market disadvantages but also holds significant implications for fostering comprehensive financial well-being at the national level. The goal of achieving comprehensive financial well-being can only be realized when financial consumers are safeguarded by a robust legal framework and institutional structure.

The research investigates the international landscape of common practices, legal frameworks, and enforcement mechanisms in financial consumer protection to extract prominent features. This endeavor aims to provide policymakers with a solid foundation for refining the legal frameworks and enforcement mechanisms for financial consumer protection within their respective nations.

2. International practices on Financial Consumer Protection

2.1. Best practices in Financial Consumer Protection by the World Bank

The World Bank has conducted an extensive research study on the effective implementation of financial consumer protection in 35 countries since 2006. It published editions of "Good Practices for Financial Consumer Protection" in 2012 and 2017. These publications address key issues arising in the process of safeguarding financial consumers, with dedicated chapters for sectors such as banking, securities, and insurance. The publications are divided into three sections: Part 1 proposes 39 common good practices for financial consumer protection; Part 2 compiles best practices related to prominent financial sectors such as banking, securities, insurance, and non-banking credit; and Part 3 presents good practices concerning pension funds and credit information reporting.

The publications also address emerging issues primarily related to digital channels, innovative products and business models, and various types of new financial service providers. To date, the 39 common good practices outlined by the World Bank for an effective financial consumer protection mechanism have served as reference points for many countries to compare and evaluate, aiming to refine the frameworks for safeguarding their financial consumers. The World Bank categorizes these good practices into eight main thematic groups: (i) Consumer protection agencies; (ii) Transparency of information and sales practices; (iii) Customer account management; (iv) Data security and privacy; (v) Dispute resolution; (vi) Deposit insurance and compensation; (vii) Financial literacy and empowerment of consumers; (viii) Competition mechanisms.

Classification		Good Practices for Financial Consumer Protection
Consumer Protection	1	Legislation needs to enact clear provisions regarding financial consumer protection in relation to financial products and services.
Institutions	2	Establishing a code of conduct for financial institutions by specific sectors, overseen by a legally mandated regulatory body. Relevant financial institutions must commit to adhering to this code of conduct.
	3	The consumer protection supervisory body may be entrusted with overseeing the activities of financial institutions.
	4	The legal system needs to have readily available optimal resolution mechanisms for any financial consumer disputes at reasonable costs, in a timely manner, and with professionalism.
	5	All legal entities providing financial services to consumers must be licensed and monitored by the appropriate supervisory authority.
	6	Media outlets and consumer advocacy associations actively promote financial consumer protection.

Classification		Good Practices for Financial Consumer Protection
Disclosure and Sales Practices	7	Financial institution collects sufficient information from the customer to ensure that the product or service is capable of meeting the needs and capabilities of that consumer.
	8	For all financial products or services, consumers will receive Terms of Use written in simple language, describing the main terms and conditions, and based on industry-agreed standards for the types of minimum information to be disclosed for each type of financial product or service.
	9	Before consumers purchase a financial product or service, the financial institution provides a written copy of their general terms and conditions, as well as the terms and conditions applicable to the specific product or service.
	10	Financial products, services with long-term commitments, or those subject to high sales pressure must have provisions for a cancellation period during which customers can terminate the contract without penalty.
	11	Borrowers have the freedom to choose a product or service provider under conditions where they are not obligated to purchase or use any particular product in order to receive another product or service from the financial institution.
	12	In their advertising, financial institutions must disclose that they are regulated and identify the relevant regulatory authority.
	13	Employees of financial institutions dealing directly with financial consumers must receive adequate training appropriate to the complexity of the product or service they are selling.
Customer Account Handling and	14	Financial institutions are required to provide written or electronic confirmations of the terms of each transaction for each customer and regularly report to each customer on the key details of their financial transactions.
Maintenance	15	Customers are individually notified in writing (or electronically) of changes in interest rates, fees, and charges at the earliest possible time.
	16	Financial institutions maintain up-to-date customer records and provide customers with ready access to their records at no cost or with a reasonable fee.
	17	Completing customer transactions is based on clear legal rules and regulations- or depending on effective self-regulation agreements.
	18	Financial institutions are strictly prohibited from using aggressive debt collection or recovery measures against customers.
Privacy and Data Protection	19	The law establishes fundamental rules for sharing information among parties involved in the credit reporting system, including credit bureaus, reporting organizations, and credit report users.
	20	For credit bureaus, the law outlines consumer rights related to information sharing, including the right to access, correct, block, and delete errors and outdated personal information.

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Classification		Good Practices for Financial Consumer Protection
	21	Specifically for credit reporting agencies, the law must specify the frequency of updating customer credit information, provide mechanisms for free access to customer credit reports (at least once a year), and outline procedures for correcting errors in credit reports.
	22	Financial institutions must ensure the security and safety of customer data.
	23	Financial institutions are obligated to protect the confidentiality and technical security of customer data.
	24	Credit bureaus must be subject to appropriate oversight by the relevant government (or non-government) agency.
Dispute Resolution	25	Financial institutions must establish a dedicated unit responsible for receiving and handling customer complaints.
Mechanisms	26	Consumers should have access to a dispute resolution mechanism that is affordable, efficient, and professionally qualified and respected, such as an independent financial ombudsman or an equivalent organization with the capacity to enforce decisions effectively.
	27	Statistics on customer complaints, including those related to violations of conduct rules, should be compiled and regularly published by an ombudsman or financial supervisory authority.
	28	Regulatory authorities have a legal obligation to disclose statistical data and analysis related to their consumer protection activities and propose changes to regulations or financial education measures to address systematic consumer complaints.
Guarantee Schemes and	29	The law ensures that regulatory authorities can take appropriate measures in case financial institutions face financial difficulties.
Insolvency	30	Any laws regarding financial insurance or guarantee funds clearly stipulate details about insurance companies, the classification of insured depositors, the coverage amount, contributors to the fund, triggering conditions for payouts, and mechanisms to ensure timely payments to all insured depositors.
	31	Depositors, life insurance policyholders, and members of the pension fund are entitled to higher priority rights compared to other unsecured creditors in the liquidation process of a relevant financial institution.
Consumer	32	The government must implement a comprehensive financial education
Empowerment		program to enhance the financial literacy of the population.
& Financial Literacy	33	The government needs to designate a specific department to lead and coordinate the development and implementation of a comprehensive financial education program.
	34	Encourage the implementation of initiatives to improve the financial capabilities of individuals, including promoting media outlets to provide information and guidance on financial matters.

Classification		Good Practices for Financial Consumer Protection
	35	The government and state agencies should seek input from consumers, industry associations, and financial organizations to develop proposals that meet the needs and expectations of consumers.
	36	The financial capabilities of consumers and the impact of measures to enhance consumer empowerment are measured through a wide-ranging household survey conducted periodically over time.
Competition and Consumer Protection	37	Financial regulatory authorities and competition regulatory agencies consult with each other to establish appropriate competition mechanisms.
	38	The government needs to formulate competition policies in the financial sector and consider the impact of these competition policies on the rights and benefits of financial consumers.
	39	Competition regulatory agencies periodically publish reports assessing the competition situation among retail financial institutions and make relevant recommendations on competition among retail financial institutions.

Source: World Bank (2012)

2.2. Principles for the Protection of Financial Consumers of G20/OECD

To ensure that policies and regulations for protecting financial consumers are appropriately tailored to the evolving landscape of the financial market, the Organization for Economic Co-operation and Development (OECD) collaborated with the Group of Twenty (G20) major economies to develop the Principles for the Protection of Financial Consumers in 2011. These principles are voluntary in nature. The G20 encourages its member countries as well as interested nations to use these principles as a basis for assessing their existing frameworks for financial consumer protection and to supplement necessary actions and regulations based on these principles. The 10 principles of the G20/OECD comprehensively cover various aspects, ranging from legal frameworks, management, supervision, and the role of supervisory authorities to issues related to fair treatment, transparency, competition, and more (OECD, 2011). These principles are still widely referenced and applied by many countries to date.

- Principle 1: Legal, Regulatory and Supervisory Framework

The protection of financial consumers must be an integral part of the supervisory management framework and should reflect the diversity of circumstances in each country, the global market, and the evolving regulatory landscape in the financial sector. Regulatory measures for protecting financial consumers should demonstrate alignment with and adaptation to the specific characteristics, types, and differences of financial products, as well as financial consumers' rights and responsibilities. These regulations must be responsive to new products, designs, technologies, and distribution mechanisms. Robust and effective

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legal and supervisory mechanisms are essential to safeguarding financial consumers and penalizing instances of misconduct, abuse, and financial fraud..

- Principle 2: Role of Oversight Bodies

There should be a supervisory authority (specialized or not) with specific responsibility for protecting financial consumers and the necessary powers to carry out its mission. This authority needs to operate independently, objectively, with full authority, an appropriate governance structure, and the necessary personnel and resources. It should be accountable for its decisions and follow a clear and transparent enforcement framework and consistent management procedures. The supervisory authority must adhere to high professional standards, including relevant standards on consumer information security, data ownership rights, and conflict of interest avoidance.

Promoting collaboration with other financial services supervisory authorities and between agencies or departments responsible for sector-specific issues is essential. A level playing field for financial services should be encouraged at the most appropriate level. Supervisory authorities should also promote international cooperation, specifically focusing on consumer financial protection issues that arise from international transactions and crossborder sales activities.

- Principle 3: Equitable and Fair Treatment of Consumers

All financial consumers should be treated equally, objectively, and fairly at all stages in their relationship with financial service providers. Fair treatment of financial consumers is an indispensable part of good governance and corporate culture for all licensed financial service providers and agents. Special attention should be paid to the needs of vulnerable groups.

- Principle 4: Disclosure and Transparency

Financial service providers and licensed agents must provide customers with essential information about the benefits, risks, and basic terms of the products. Additionally, they must inform customers about any conflicts of interest that may arise with the licensed agent responsible for selling the product. At all stages of the customer relationship, the licensed agent must provide important information about financial products. All advertising materials must be accurate, truthful, understandable, and not misleading. Apply standardized disclosure forms (e.g., forms) to allow comparisons between products and services of a similar nature before concluding a contract. Establish specific disclosure mechanisms, including warnings, to provide information commensurate with the complexity and risks of the product and service. Conducting consumer behavior research can help identify and improve the effectiveness of disclosure requirements.

- Principle 5: Financial Education and Awarenes

All stakeholders need to actively enhance awareness and financial education, and financial consumers should have easy access to information about consumer protection,

their rights, and their responsibilities. Appropriate mechanisms need to be established to help current and future financial consumers develop knowledge, skills, and confidence to understand financial risks, including financial opportunities and risks, make informed choices, know where to seek assistance, and take appropriate action to improve their financial situation.

Widely disseminating financial education and information can enhance the financial knowledge and capabilities of financial consumers, particularly for vulnerable groups. Considering the specific conditions of each country, financial education should be implemented as part of the education and financial consumer protection strategy, carried out through various appropriate channels, starting from a young age and accessible to all age groups. Develop programs and specific methods specifically for vulnerable groups of financial consumers as part of the education and financial consumer protection strategy.

- Principle 6: Responsible Business Conduct of Financial Services Providers and Authorised Agents

Financial service providers and licensed agents should aim for the highest benefit for their customers and bear the responsibility of safeguarding financial consumers. Financial service providers also need to take responsibility for the actions of their licensed agents. Depending on the nature of the transaction and the essential information provided by customers, financial service providers need to assess the financial capability, situation, and needs of customers before agreeing to provide advice, products, or services.

Financial service providers and licensed agents should train and ensure that employees, especially those directly interacting with customers, possess appropriate qualifications. When there is a potential for conflicts of interest, financial service providers and licensed agents should make efforts to prevent conflicts from occurring. When such conflicts arise, financial service providers and licensed agents must ensure accurate disclosure of information, establish internal mechanisms to address conflicts, or refrain from providing advice, products, or services. The compensation structure for employees of both financial service providers and licensed agents should be designed to encourage responsible business behavior, fair treatment of financial consumers, and the avoidance of conflicts of interest. When appropriate, financial service providers and licensed agents should disclose the compensation structure to customers, particularly when potential conflicts of interest are beyond management's control or cannot be avoided.

- Principle 7: Protection of Consumer Assets against Fraud and Misuse

The relevant information, protection mechanisms, and controls must maximize the safeguarding of deposits, savings, and similar financial assets of financial consumers against fraud, misappropriation, or other forms of abuse.

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- Principle 8: Protection of Consumer Data and Privacy

The personal and financial information of customers should be protected through appropriate control and safeguard mechanisms. These mechanisms must clearly define the purpose of collecting, processing, storing, using, and disclosing data, particularly to third parties. The mechanisms should also acknowledge the rights of financial consumers to be informed about the sharing of personal information, access data, and request timely adjustments and/or deletion of inaccurate or unlawful data.

- Principle 9: Complaints Handling and Redress

Regulatory authorities must ensure that financial consumers have the right to access comprehensive, easily accessible, reasonably priced, independent, fair, responsible, timely, and effective complaint-handling and resolution mechanisms. Such mechanisms should not impose unreasonable fees, delays, or burdens on financial consumers. In line with this principle, licensed financial service providers and agents must have complaint-handling and redress mechanisms. There should be an independent resolution process to address complaints that have not been effectively resolved through the internal dispute resolution mechanisms of the financial service provider and its appointed agents. At a minimum, aggregated information regarding complaints and the resolution of complaints must be publicly disclosed.

- Principle 10: Competition

It is necessary to promote domestic and international market competition to provide consumers with more choices in financial services and create competitive pressure for providers to offer competitive products, enhance innovation, and maintain high service quality. Consumers should be able to search, compare, and, when appropriate, switch between products and providers easily, at reasonable costs, and transparently.

3. Legal Framework for Financial Consumer Protection in Countries

According to the World Bank survey in 2018, the legal framework for financial consumer protection has been established in 124 surveyed countries, employing three common approaches:

(1) Consumer protection regulations integrated into specialized financial laws (such as Banking Law, Securities Law, Insurance Law, etc.). The majority of surveyed countries adopt this approach (over 70%). This approach requires close coordination among regulatory agencies, as certain types of service providers may fall outside the scope of financial consumer protection regulations. This becomes a significant challenge for regulatory agencies amid rapid technological advancements, emerging financial services, and cross-sector collaborations.

(2) Consumer protection provisions within general consumer protection laws (with specific references to financial consumers).

(3) Separate laws or regulations specifically addressing financial consumer protection. Developing dedicated laws helps avoid gaps or conflicts between various regulations, and this approach is often applied by countries with highly developed financial markets.

Despite the various approaches, most financial consumer protection laws worldwide incorporate two key provisions: (i) licensing and registration requirements; and (ii) oversight responsibilities of regulatory authorities.

- Licensing/Registration Requirements:

Licensing and registration requirements play a crucial role not only as the initial and vital step in the state's supervision of financial activities but also as a significant support in enforcing mechanisms for financial consumer protection. Regulations on temporary or permanent license revocation can be an effective deterrent against financial institutions violating consumer protection regulations. Moreover, managing licensing and registration also provides regulatory agencies with essential and updated information about financial service providers, facilitating more effective monitoring of consumer financial protection.

The specific levels of licensing may vary depending on each country's regulations and the development level of the financial market. In countries with large and dynamic financial markets, licensing may be examined at different levels.

+ *Level 1*: Banks and some non-banking financial institutions must obtain a license before operating, regardless of scale, meeting minimum criteria. Operations will not proceed without the approval of the competent authority..

+ *Level 2*: Some non-banking financial institutions and non-financial companies must apply for a license if their activities exceed certain thresholds, considering scale or complexity. This level also imposes minimum requirements, which may be lower than those applied at level 1.

+ *Level 3:* Some non-banking financial institutions and non-financial entities only need to register. They can commence operations without prior approval, as long as they register their activities within a prescribed timeframe. This level does not require minimum criteria but includes reporting basic information to the competent authority. The cessation of operations only requires notification to the regulatory authority.

- Oversight provisions:

Once licensing is completed, the law needs to designate the licensing authority, which must have the authority and capacity to establish and oversee the minimum requirements for a licensed organization. This includes (i) minimum standards for the qualifications of owners, board members, senior management, and business controllers; (ii) minimum standards for corresponding internal management and control, including specific controls to minimize risks to financial consumer protection.

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4. Mechanisms for Enforcing Financial Consumer Protection in Countries

Closely related to the legal framework and regulations for financial consumer protection is the organizational structure of the responsible agencies for issuing financial consumer protection regulations and overseeing their implementation. International principles and guidelines consistently emphasize the importance of institutional structures for management and supervision to ensure the enforcement of financial consumer protection regulations. TheG20 group principles recommend the establishment of a supervisory authority with a clear mandate and jurisdiction, appropriate governance mechanisms, independence, transparency in operations, and sufficient resources and capabilities to fulfill its mission. According to the World Bank, the institutional structure must ensure the enforcement of regulations that are comprehensive, purposeful, timely, and fair, whether consumer protection monitoring is carried out by two different agencies or falls under the responsibility of a single agency.

Examining and assigning responsibilities to the regulatory agency to ensure the enforcement of legal frameworks for consumer protection should consider the following factors:

- Organizational Structure:

There is no single model that can be applied to all countries. Typically, the authority responsible for protecting consumers of banking services will be determined based on the goal and effectiveness of implementing consumer protection laws, including functions such as issuing consistent, timely, and comprehensive regulations for both banks and non-banking entities.

A legal framework based on behavior will serve as the foundation for an authority with jurisdiction covering all types of entities providing banking services. This model will help eliminate legal gaps, ensure consistency, and minimize the risk of conflicting interests when multiple functional authorities are involved in enforcing financial consumer protection. However, having a single, completely centralized authority for enforcing the framework of consumer protection may not be feasible for many countries. There could exist multiple functional authorities jointly responsible for protecting consumers (such as central banks and other agencies) regarding banking services, and effective coordination mechanisms will be necessary.

- Scope and Responsibilities of Consumer Protection Supervisory Agency:

To effectively protect consumers, financial service providers such as deposit, savings, payment services, and non-banking institutions need to be under the management of an authorized agency responsible for enforcing consumer protection laws. If it is not possible to manage all non-banking entities, at least those with a high risk to consumers, such as consumer credit organizations or large financial cooperatives, should fall under the regulatory authority of the banking supervision agency tasked with consumer financial protection.

- Responsibilities of the Supervisory Agency::

In most legal jurisdictions, the functions of cautious supervision and consumer protection are entrusted to an executing authority. Countries following this model have established specialized units for safeguarding financial consumers. Agencies without dedicated units are also recognized for performing the function of consumer protection as part of cautious supervision activities.

Regardless of which agency is chosen to ensure the enforcement of financial consumer protection laws, the crucial aspect remains that the mission must be clearly and specifically defined. Regulations on authority to issue provisions, supervise, manage, inspect, and enforce must align with the objectives of these agencies' operations. Ensuring authority must extend over service providers, whether deposit, savings, payment, banking, or non-banking entities, whether licensed or registered to provide services.

- Tools, Authority, and Supervisory Resources:

Agencies with a mandate for financial consumer protection commonly employ various monitoring tools, including collecting statistical information on complaints, operating hotlines to receive and investigate complaints, electronic information platforms, comparing fees and interest rates reported by financial institutions. The effectiveness of regulatory text is a key factor for a comprehensive and effective approach to protecting financial consumers. Most supervisory agencies can issue warnings to financial service providers, impose penalties, request service providers to withdraw misleading advertisements, require fee refunds, publicly disclose violations, or impose penalties on senior managers, and revoke the licenses of violating organizations.

- Intra-Industry and Cross-Industry Coordination:

Effective coordination mechanisms between different units within the same agency or between agencies, particularly between financial supervisory agencies and telecommunications and information management agencies, are particularly important to ensure the effective enforcement of consumer protection regulations. As network providers play an increasingly significant role in providing digital financial services, with a growing integration of telecommunications and information technology with the financial sector, especially with the rapid development of digital financial services, new issues related to competition between network providers when providing services to users arise, requiring coordination between financial supervisory agencies and telecommunications and information management agencies.

5. Conclusion

The financial market is progressively expanding due to significant advancements in science and technology, providing financial consumers with more convenient financial

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products and services. However, the proliferation of new financial products with complex information may expose financial consumers to disadvantages such as asymmetric information and financial fraud. This necessitates countries to establish and enhance legal frameworks to protect financial consumers, contributing to the comprehensive financial development of the nation. The research has presented international norms on financial consumer protection, notably the "39 Good Practices for Financial Consumer Protection" by the World Bank and the "10 Principles for Financial Consumer Protection" by G20/ OECD. Furthermore, the article outlines legal frameworks and enforcement mechanisms for financial consumer protection proposed by reputable organizations. The aim is to assist policymakers in refining the legal framework for protecting financial consumers in their respective countries.

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